(3) The period of management shall be as such as may be agreed to between the Government and the applicants.

*Responsibilities of occupants and holdings of the land for preservation of trees.*

39. (1) Every occupant or holder of land shall be responsible for the due preservation of all trees growing thereon and shall in the event of any injury to any tree from whatever cause or its theft, at once report such fact to the nearest forest officer-.

(2) Any occupant or holder who fails to report any such case of injury or theft as aforesaid or to prove to the satisfaction of such officer of the rank not below to that of a Range Officer that such injury or theft has not been caused either by his own act or by neglect or default on his part by any other person at his instigation or with his connivance shall, notwithstanding any other penalty to which he may be liable, be liable to pay such compensation on account of such injury or theft as the Range Officer may deem reasonable:

Provided that the Range Officer may, in cases in which he is satisfied that the person responsible for the act, neglect, default, instigation or connivance resulting in the injury or theft, tenant or the occupant or holder or any other person holding under or through a tenant or occupant or holder, direct that such tenant or occupant or holder or other persons shall be liable for compensation or, be proceeded against in the first instance for recovery thereof.

*Application for permits for felling tree.*

40. (1) Every person who whether as holder, occupant, tenant, sub-tenant or leasee or in any other capacity having right over trees growing or existing or found on any land, who is desirous of felling such trees for bonafide domestic use, shall apply to the forest officer not below the rank of Range Officer in the prescribed form and shall obtain permit.

(2) No person shall remove any trees, wood, timber or other forest produce from his land without obtaining permit in this behalf in the manner provided in subsection (1) :

Provided that no fees or duties shall be imposed on removal of such produce by any person from his land.

(3) Every person who having right over trees growing or existing or found on any land, is desirous of felling such trees for commercial use shall apply to the forest officer not below the rank of Deputy Conservator of Forests and shall obtain a permit on payment, if any, as may be prescribed.

*Application of provision of this Act relating to forest produce and trees grown in land under the control of the local authrity and institution.*

41. The provisions of Chapter III of this Act shall apply in respect of all forest produce and trees grown in any land under the control and management of a local authority and institution.

## CHAPTER—VI

## TRANSIT OF FOREST PRODUCE

*Power to make rules to regulate transit of Forest produce.*

42. (1) The control of all rivers and their banks as regards floating of timber as well as the control of all timber and other forest produce in transit by land or water, is vested in the Government and it may make rules to regulate the transit of all timbers and other forest produce.

Explanation. —For the purpose of this Chapter, the forest produce shall be deemed to include semi-finished forest product for commercial purposes.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may,-

(a) specify the routes by which timber or any other forest produce may be transported or moved into from or within the State and the fee thereof;

(b) in the case of timber formed into a raft or fastened to the shore, prohibit the lossening or the setting a drift not such timber by any person not being the owner thereof or not acting on behalf of such owner or the Government;

(c) provide for the stoppage, reporting, examination and marking of timber or other forest produce in transit, in respect of which there is reason to believe that any money is payable to the Government on account of the price thereof or any duty, fee, royalty or charge due thereon or to which it is desirable for the purpose of this Act to affix the mark;

(d) provide for the establishment of check posts or the erection of barriers at such places as the Government may direct with a view to prevent or check commission of forest offences in respect of forest produce and for stoppage, reporting and examination of goods carried by any vehicle or vessel at such check posts or barriers;

(e) provide for establishment and regulation of depots and stations to which such timber or other forest produce shall be taken by those in charge of it for examination, or for the payment of such money or in order that such marks may be affixed to it, and the conditions under which such timber or other forest produce shall be brought to, stored at and removed from such depots or stations and for regulating the appointment and duties of persons employed therein;

(f) authorise the transport of such timber or other forest produce across any land and provide for payment of compensation for any damage done by the transport of such timber or other forest produce;

(g) prohibit the closing up or obstructing of the bank of any river used for the transit of timber or other forest produce and throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;

(h) provide for the prevention or removal of any obstruction of the channel or banks of any such river and for recovering the cost of such prevention or removal from the person whose act or negligence caused such obstruction;

(i) prohibit absolutely or subject to conditions, within the whole of the State of Sikkim or specified local limits, the establishment of saw pits, saw mills or any other sawing machines for converting, cutting, processing, distilling, storing, burying, cancelling or marking of timber or other forest produce, the altering or defacing of any marks on the same or the possession or carrying of marking hammer or other implements used for marking timber;

(j) regulate the existing sawpits, saw mills or any other sawing contrivance:

Provided that no existing sawpits, saw mills or any other sawing contrivance shall be closed unless the owner thereof has been given an opportunity of being heard.

(3) In making the rule under this section, the Government may provide that person guilty of contravention thereof shall, on conviction, be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both, and where the offence committed after sunset or before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for a like offence, the Magistrate having jurisdiction shall inflict double the penalty prescribed for such offence.

*The Government and forest officer not liable for damage to forest produce at depots and stations.*

43. The Government shall not be responsible for any loss for damage which may occur in respect of any timber or other forest produce while at a depot or station established under rules made under section 42 or detained elsewhere for the purpose of this Act and no such forest officer shall be responsible for any such loss or damage unless he causes loss or damage wilfully, negligently, maliciously or fraudulently.

*All persons employed at depots and stations bound to aid in case of accident.*

44. In case of any accident or emergency involving danger to any property at any depot or station, every person employed at such depot or station shall render assistance to any forest officer or police officer demanding his aid in preventing the damage or loss to such property.

## CHAPTER - VII

## COLLECTION OF DRIFT AND STRANDED TIMBER

*Certain kinds of timber property of Government.*

45. (1) All timber—

(a) found adrift, beached, stranded or sunk;

(b) bearing marks which have not been registered in accordance with the rules made under section 42;

(c) which have been super marked or on which the marks have been obliterated, altered or defaced by fire or otherwise;

(d) which are not marked but found in such areas as the Government may specify;

shall be deemed to be the property of the Government unless and until any person established his right and title thereto as provided in this Chapter.

(2) The timber referred to in sub-section (1) may be collected b any forest officer or by any other person authorised to collect the same by virtue of any rule and may be brought to any forest depot.

*Notice to claimants of drift timber.*

46. Public notice shall, from time to time, be given by the forest officer regarding timber collected under section 45. Such notice shall contain a description of the timber and shall require any person claiming to same to present a written application for such claim to such officer within a period of not less than thirty days from the date of such notice.

*Procedure for disposal of application for claim.*

47. (1) When any application is presented under section 46, the forest officer may, after making such enquiry as he thinks fit, either reject the claim, after recording his reason there or accept the claim and deliver the timber to the claimant.

(2) If such timber is claimed by more than one person, the forest officer may either deliver the same to any such person whom he finds to be entitled thereto after recording the reasons therefor or may refer the claimants to the Civil Court, and retain the timber pending the receipt of an order from such court for its disposal.

(3) Any person whose claim has been rejected under the section may, within thirty days from the date of intimation of the order of such rejection, institute a suit to recovery of the possession of the timber claimed by him but no such person shall be entitled to any compensation or costs against the Government or against any forest officer on account of such rejection or the detention or removal of any timber.

(4) Unless there are adequate arrangements for storage of timber detained or kept by the forest officer under this section the Court may order that the timber so detained or kept shall remain at the custody of the forest officer until the disposal of the suit.

*Disposal of unclaimed timber.*

48. If no application is presented under section 46, or on such claim having been preferred and rejected, fails to institute a suit for recovery of the possession of such timber within thirty days from the date of rejection of his claim, the ownership of such timber shall vest with the Government free from all encumbrances.

*Government and its officers not liable for damage,*

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45 and no forest officer shall be responsible for any such loss or damage unless he causes such loss or damage wilfully, negligently, maliciously or fraudulently.

*Payment to be made by claimant before timber is delivered to him.*

50. No persons shall be entitled to recover possession of any timber collected under section 45 or delivered under section 47 until he paid to the forest officer or other person entitled to receive such sum on account thereof as may be due under any rule made under section 51.

*Power to make rules.*

51. (1) The Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to regulate the following matters, namely:—

(a) the salvaging, collection and disposal of all timber mentioned in this Chapter;

(b) the use and registration of boats or any other conveyance used in salvaging and collecting timber;

(c) the amount to be paid for salvaging, collecting, moving, storing or disposing of such timber;

(d) the use and registration of hammers and other instruments to be used for marking such timber.

(3) In making the rules under this section, the Government may provide that a person guilty of contravention thereof shall, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

## CHAPTER - VIII
## CATTLE - TRESPASS

*Power to seize and impound cattle,*

52. Any cattle trespassing in a reserved forest or in any portion of a khasmal forest or gorucharan forest or slip reserve or road reserve or river banks which has been closed by the Government for grazing shall be seized and impounded by any forest officer.

*Power to levy fine.*

53. (1) The Government may, from time to time, by notification, direct that in all or any part of the areas which have been closed under section 25 or section 32, there shall be levied for each head of cattle or other animal impounded under section 52, such fine not exceeding fifty rupees as may be specified in such notification.

(2) Any expenditure incurred by the Government during the period of impounding of such cattle for feeding shall be realised from the owner of the cattle at the time of release.

(3) The officer impounding such cattle shall take all precaution for the safety of the cattle during the period such cattle or other animals remain impounded.

*Explanation:-* The burden of proof that the cattle or other animal has not been physically injured or diseased before the impounding lies with the owner of the cattle or other animals.

(4) The cattle or other animal which remains unclaimed for such period as may be prescribed shall be disposed of in such manner as may prescribed.

*Power to make rules.*

54. The Government may, by notification, make rules to regulate the following matters, namely:-

(a) establishment of cattle pound;

(b) conditions of release of cattle and other animals from the pound;

(c) maximum period of impounding ; and

(d) the manner of disposal of unclaimed cattle and other animal and disposal of sale proceeds.

## CHAPTER- IX

## PENALTIES AND PROCEDURE

*The seizure of property liable to confiscation.*

55. (1) Where there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all implements, tools, vehicle used in committing any such offence may be seized by any forest officer.

(2) Any forest officer may, if there is reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is a reason to believe a forest offence has been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationery as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in possession of such driver or other person in charge of the vehicle.

(3) Every officer seizing any property under this section shall place on such property or the receptacle or vehicle, if any, in which it is contained a mark indicating that the same has been seized and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try offence on account of which the seizure has been made :

Provided that where the forest produce in respect of which such offence is believed to have been committed is the property of the Government and if the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, report of the circumstances of the seizure to his superior officer.

*Power to release property seized under section 55.*

56. Any forest officer not below the rank of Range Officer who, or whose sub-ordinate has seized any cattle or other forest produce, animal, vehicle or any other thing referred to in section 55, may release the same on the execution by the owner thereof of a bond for the production of the property so released if and when so required before the Magistrate having jurisdiction to try the offence on account of which the seizure had been made.

*Penalty for unauthorisedly taking possession of land constituted as reserved forests.*

57. (1) Any person who is in unauthorised occupation of forest land may without prejudice to any other action that may be taken against him under any other provisions of the Act or any other law for the time being in force, be summarily evicted, by a forest officer not below the rank of a Deputy Conservator of Forests having jurisdiction over the said forest land and any building or other construction erected thereon shall, if not removed by such person within such time as the Deputy Conservator of Forests may fix, be liable to forfeiture:

Provided that before evicting a person under this sub-section he shall be given a reasonable opportunity of being heard.

(2) Any property forfeited under sub-section (1) shall be disposed of in such manner as the Deputy Conservator of Forests may direct and the cost of removal of any crop, building or other work and all works necessary to restore the land to its original condition shall be recoverable from the persons evicted in the manner as if it were an arrear of land revenue.

(3) Any person aggrieved by an order of the Deputy Censervator of Forests under sub-sections (1) and (2) may, within a period of one month and in such manner as may be prescribed, appeal against such order to the Conservator of Forests

*Forest produce, implements, tools, etc. when liable for forfeiture.*

58. (1) The forest produce which is not the property of the Government and in respect of which a forest offence has been committed and all implements, vehicles, or other conveyance or any other vehicle used in committing such offence, shall be liable by order of the convicting court to be forfeited to the Government.

(2) Such forfeiture may be in addition to any other punishment provided in this Act for such offence.

*Disposal of forest produce etc. on conclusion of trial.*

59. When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the propety of the Government or has been forfeited, be taken possession of by the forest officer, and in any other case may be disposed of in such manner as the court may, by order, direct.

*Procedure when offender is not known or cannot be found.*

60. When the offender is not known or cannot be found, the Magistrate may if he finds that an ofience has been committed, order the property in respect of which the offence has been committed to be forfeited to the Government together with tools, vehicles or cattle and other articles used in committing the offence and taken charge of by the forest officer or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of thirty days from the date of seizing the property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

*Procedure as to perishable property seized.*

61. Notwithstanding anything hereinbefore contained, the Deputy Conservator of Forests may direct sale of the property seized under section 55 which is subject to speedy and natural decay and deposit the sale proceeds with the Government.

*Appeal from orders under sections 58,59 or 60.*

62. Officer who made the seizure under section 55 or any officer superior or any person claiming to be interested in the property so seized may, within thirty days from the date of any order passed under section 58, section 59 or section 60, appeal to the Court having jurisdiction.

*Vesting of forfeited property in the Government.*

63. When an order for the forfeiture of any property has been passed under section 58 or section 60 thereof, as the case may be, and the period specified by section 62 for an appeal from such orders has lapsed, and no such appeal has been preferred, the court confirms such order in respect of the whole or a portion of such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

*Confiscation by forest officers in certain cases.*

64. Notwithstanding anything contained in the foregoing provisions of this Chapter, where a forest offence is believed to have been committed in respect of timber, firewood, charcoal and other forest produce which is the property of the Government, the officers seizing the property shall, without any unreasonable delay produce it, together with all implements, ropes, chains, vehicles and cattle and other animal used in committing such offence before a superior forest officer authorised by the Government in this behalf, not being below the rank of the Deputy Conservator of Forests ( hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes any timber, charcoal, firewood and other forest produce which is the property of Government, or where such property is produced before an authorised officer under sub-section (1) and if he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of property so seized together with all ropes, chains, implements, vehicles, cattle and other animal used in committing such offence.

*Issue of show cause notice.*

65. No order confiscating any property under section 55 shall be made except after serving a notice in writing to the person from whom it is seized and considering his objection, if any.

*Revision.*

66. Any forest officer not below the rank of a Chief Conservator of Forests, before the expiry of thirty days from the date of the order of the Conservator of Forests under section 57, on his own motion call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit :

Provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

*Appeal.*

67. Any person aggrieved by an order passed under section 64 or section 66 may, within thirty days from the date of issue of order to him appeal to the Magistrate having jurisdiction over the area of seizure of such property and the Magistrate after giving an opportunity to be heard shall pass an order either confirming or rejecting or modifying the order appealed against.

*Vexatious search, etc. by forest officer.*

68. (1) Any forest officer exercising powers under this Act or any rule made thereunder who—

(a) without reasonable ground of suspicion, searches or causes to be searched any place, premises, vehicle or vessel; or

(b) vexatiously detains or searches or arrests any person;

shall, for every such offence, upon conviction by the court, be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall, upon conviction by the court, be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or with both.

*Central Act 45 of 1860*

*Penalty for counter-feiting or defacing marks on trees or timbers and for altering boundary marks.*

69. Whoever with intend to cause damage or injury to the public or to any person to cause wrongful gain as defined in the Indian Penal Code, 1860,—

(a) knowingly counterfeits upon any timber or standing tree a mark used by forest officer to indicate that such timber or such tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(b) unlawfully affixes to any timber or standing tree a mark used by forest officers; or

(c) alters, defaces or obliterates any such marks placed on any timber or standing tree by or under the authority of a forest officer; or

(d) alters, moves, destroys or defaces any boundary marks of any forest to which the provisions of this Act are applicable;

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to six thousand rupees or with both.

*Power to arrest without warrant.*

70. (1) A forest officer may, without an order from a Magistrate and without a warrant, arrest any person—

(a) who has been concerned in any forest offence punishable with imprisonment for not less than one month; or

(b) who on demand of such forest officer, refuses, gives his name of residence or gives a name or residence which such officer has reason to believe to be false; or

(c) if there is reason to believe that he will abscond.

(2) Any person arrested under sub-section (1), shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of Magistrate and no such person shall be detained in custody beyond the said period without the order of a Magistrate.

*Power to release on bond.*

71. Any forest officer of the rank not below that of a Range Officer who, or whose subordinate, has arrested any person under the provisions of section 70 may, release such person on his executing a bond with or without surety to appear before the Magistrate if so required.

*Power to try offences summarily.*

72. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 ( V of 1898 ), any Magistrate of the First Class especially empowered in this behalf by the State Government may try summarily any forest offence.

*Power to prevent commission of offence.*

73. Every forest officer and police officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.

*Power to compound offences.*

74. (1) The Government may, by notification, empower a forest officer not below the rank of a Range Officer-

(a) to accept from any person against whom reasonable suspicion exists that he has committed any forest offence, other than offence referred to in section 68 and section 69, a sum of money which shall be twice the value of the property involved by way of compensation for the offence which such person is suspected to have committed; and

(b) when any property has been seized is liable to confiscation to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money or such value, or both,, as the case may be, to such officer, the suspected person, if in custody, shall be discharged with and the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

*Forest produce presumed to be the Government property.*

75. When in any proceedings taken under the provisions of this Act or in consequence of anything done under this Act or under any other law for the time being in force, a question arises as to whether any forest produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved and in case of any prosecution the burden of proving the contrary shall lie on the accused.

*Compensation for damage.*

76. (1) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise in contravention of provisions of this Act or of any rule made thereunder, the convicting court may, in addition to any other punishment which it may impose, order that person to pay to the Government such compensation for each tree with respect to which the offence was committed, as it deems just.

(2) Where the person convicted of commission of an offence is an agent or servant of another person, the court may, after holding such enquiry as it deems fit or giving him reasonable opportunity of being heard, order such person to pay the compensation if it is of the opinion that the offence was committed due to neglect or default of such other person.

*Forfeiture of leases.*

77. When the holder of any lease, licence or contract whatsoever granted or continued by or on behalf of the Government for any of the purposes of this Act, or when any such offence is committed by any agent or servant of the holder of any such lease, licence or contract and the Government is satisfied with the commission of the offence was a consequence of the instigation of such holder or of any wilful neglect or default on his part, the Government or a forest officer duly empowered by the Government in this behalf may, by order in writing, declare the lease, licence, or contract to be forfeited in whole or in part with effect on and from the date to be specified in the order.

*Act not in derogation of other laws.*

78. This Act shall be, in addition to, and not in derogation of any other law for the time being in force.

## CHAPTER - X
## MISCELLANEOUS

*Powers of forest officer.*

79. (1) Without prejudice to the powers conferred upon a forest officer under this Act, Government may, by notification, invest any forest officer with all or any of the following powers, that is to say:-

(a) to enter upon any land and survey, demarcate and make a map of the same;

(b) to compel the attendance of witnesses, production of documents and the materials of objection;

(c) to hold investigation into forest offence, and in the course of such investigation to receive and record evidence;

(d) to notify the seasons and manner in which fire may be kindled, kept or carried in a Reserved Forest or Forest;

(e) to grant permits referred to in the provisions of this Act;

(f) to give public notice of timber collected under section 45;

(g) to notify stations, depots for the receptions and sale of timber and forest produce;

(h) to take possession of property under this Act;

(i) to stop and check any vehicle suspected of being involved in a forest offence;

(j) to compound cases and charge compensation for damages caused by commission of forest offence.

(2) Any evidence recorded under clause (c) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate :

Provided that it has been taken in the presence of the accused person and recorded in the manner as provided under sections 355, 356 or 357 of the Code of Criminal Procedure, 1898.

*Central Act 45 of 1860*

*Forest officer deemed to be public servant.*

80. Every forest officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

*Indemnity for acts done in good faith.*

81. (1) No suit, prosecution or other legal proceedings shall lie against any forest officer for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

*Forest officer not to trade.*

82. No forest officer shall, either as principal or an agent or in any other capacity, trade in timber or other forest produce or become interested in any lease or mortgage of any forest within or outside the State of Sikkim.

*General power to make rules.*

83. (1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) to confer or limit the power and duties of any forest officer under this Act;

(b) to regulate the procedure of working by the forest officer under this Act;

(c) for the preservation, reproduction and disposal of trees, timber and other forest produce belonging to Government or otherwise, grown on land belonging to or in the oocupation of private persons;

(d) to regulate the rewards to be paid to officers and informers;

(e) to regulate the cuttings, felling, sale and disposal of trees in private holdings, or gorucharan or khasmal forest;

(f) the fees to be levied in respect of licences, permits, passes or permissions issued under this Act or rules made thereunder;

(g) to prescribe the distance from the centre of the National Highway and other Highways as road reserve under sub-section (4) and sub-section section (5) of section 29;

(h) any other matter which is required to be or may be prescribed.

*Penalties.*

84. Any person who contravenes any provision of this Act or any rule made under this Act for contravention of which no separate penalty is provided, shall on conviction, be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to six thousand rupees or with both.

*Persons bound to assist forest officer.*

85. Every person who—

(i) exercises any right in a reserve forest, khasmal forest or gorucharan forest or any other forest land; or

(ii) is permittted to take any forest produce from such forest or forest land; or

(iii) cuts and removes timber; or

(iv) pastures cattle in any forest; or

(v) is employed by any of the persons hereinbefore mentioned in a village contiguous to such a forest; or

(vi) is employed by the Government; or

(vii) receives the emoluments from the Government for services performed to the community;

shall be bound to furnish without unnecessary delay to nearest forest officer any information that he may possess regarding the occurrence of fire in or near such forest or commission of any forest offence and shall forthwith take steps,-

(a) to extinguish any forest fire in such forest or which he has knowledge or information;

(b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge of or information from spreading to such forest and shall assist any forest officer demanding his aid;

(c) in preventing the commission of any forest offences; and

(d) when there is reason to believe that any such offences has been committed, in such forest, in discoverring and arresting the offender.

(2) Any person who is required to act in accordance with sub-section (1) fails to do so without lawful excuse -

(a) to furnish information to the nearest forest officer;

(b) to take steps to extinguish any forest fire;

(c) to prevent spreading of fire;

(d) to assist any forest officer demanding his aid in preventing the commission of forest offence;

shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with a fine which shall not be less than five thousand rupees or with both.

*Recovery of money due to Government.*

86. All monies payable to the Government under this Act or under any rule made thereunder on account of the price of any forest produce or of expenses incurred in the execution of this Act in respect of such produce may, if not paid when due, be recovered as if it were an arrear of land revenue.

*Lien on forest produce.*

87. (1) When any money referred to in section 86 is payable for in respect of any forest produce, the amount thereof shall be deemed to be the first charge on such produce and such produce may be taken possession of by a forest officer duly empowered and may be retained by him until such amount has been paid.

(2) If such amount is not paid within the period of one month from the date of receipt of a notice for such amount, the forest officer may sell such produce by public auction and the proceeds of sale shall be applied first in discharging such amount.

(3) The surplus of sale proceeds of such public auction, if any, if not claimed within sixty days from the date of sale by the person entitled thereto, shall be forfeited to the Government :

Provided that the Government may, for reasons to be recorded in writing, order the refund of such surplus sale proceeds to the person entitled thereto within the period of three years from the date of sale.

*Recovery of penalties due under bond.*

88. When any person in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servant and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of such breach of the conditions thereof, may notwithstanding anything in section 74 of the Indian *9 of 1872.* Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue.

*Power to remove difficulties.*

89. If any difficulty arises in giving effect to the provisions of this Act, the Government may by order not inconsistent with the provisions of this Act, remove such difficulties:

Provided that no such order shall be made after the expiration of a period of three years from the date of commencement of this Act.

*Cognizance of offence.*

90. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by any forest officer not below the rank of a Range Officer.

*Repeal and Saving.*

91. (1) The Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Ordinance, 1988 (Ordinance No. 2 of 1988), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.

(3) All existing orders, notifications, rules, regulations, bye-laws, proclamations and other instrument having the force of law shall be deemed to have been made under this Act and they shall remain in force till the rules under the provisions of this Act are made.